



[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-135734-14]

RIN 1545-BM45

Inversions and Related Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulation.

SUMMARY: The Department of Treasury (Treasury Department) and the IRS are issuing temporary regulations that address transactions that are structured to avoid the purposes of sections 7874 and 367 of the Internal Revenue Code (the Code) and certain post-inversion tax avoidance transactions in the Rules and Regulations section of this issue of the **Federal Register**. The temporary regulations affect certain domestic corporations and domestic partnerships whose assets are directly or indirectly acquired by a foreign corporation and certain persons related to such domestic corporations and domestic partnerships. The text of the temporary regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by **[INSERT DATE 90 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-135734-14), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC

20224. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-135734-14), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-135734-14).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations under sections 304, 367, and 7874, Shane M. McCarrick or David A. Levine, (202) 317-6937; concerning the proposed regulations under sections 956 and 7701(l), Rose E. Jenkins, (202) 317-6934 (not toll-free numbers); concerning submissions of comments or requests for a public hearing, Regina Johnson, (202) 317-5177 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** contain regulations under sections 304, 367, 954, 956, 7701(l), and 7874 of the Internal Revenue Code (Code) that address transactions that are structured to avoid the purposes of sections 7874 and 367 of the Internal Revenue Code (the Code) and certain post-inversion tax avoidance transactions. The text of the temporary regulations also serves as the text of the proposed regulations herein. The preamble to the temporary regulations explains the temporary regulations and the corresponding proposed regulations.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. Chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f), this notice of proposed rulemaking has been submitted to the Chief Counsel of Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the “Addresses” heading. Treasury and the IRS request comments on all aspects of the proposed rules. All comments will be available at www.regulations.gov or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits electronic or written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal authors of these proposed regulations are Rose E. Jenkins, David A. Levine, and Shane M. McCarrick of the Office of Associate Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1--INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding and revising entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.304-7 also issued under 26 U.S.C. 304(b)(5)(C).
Section 1.367(b)-4 also issued under 26 U.S.C. 367(a), 367(b), and 954(c)(6)(A).
Section 1.956-2 also issued under 26 U.S.C. 956(d) and 956(e).
Section 1.7701(l)-4 also issued under 26 U.S.C. 7701(l) and 954(c)(6)(A).
Section 1.7874-2 also issued under 26 U.S.C. 7874(c)(6) and 7874(g).
Section 1.7874-4 also issued under 26 U.S.C. 7874(c)(6) and 7874(g).
Section 1.7874-6 also issued under 26 U.S.C. 7874(c)(6) and 7874(g).
Section 1.7874-7 also issued under 26 U.S.C. 7874(c)(6) and 7874(g).
Section 1.7874-8 also issued under 26 U.S.C. 7874(c)(6) and 7874(g).
Section 1.7874-9 also issued under 26 U.S.C. 7874(c)(6) and 7874(g).
Section 1.7874-10 also issued under 26 U.S.C. 7874(c)(4) and 7874(g).
Section 1.7874-11 also issued under 26 U.S.C. 7874(g).
Section 1.7874-12 also issued under 26 U.S.C. 7874(g).

Par. 2. Section 1.304-7 is added to read as follows:

§1.304-7 Certain acquisitions by foreign acquiring corporations.

[The text of proposed §1.304-7 is the same as the text of §1.304-7T published elsewhere in this issue of the **Federal Register**.]

Par. 3. Section 1.367(a)-3 is amended by revising paragraphs (c)(3)(iii)(C) and (c)(11)(ii) to read as follows:

§1.367(a)-3 Treatment of transfers of stock or securities to foreign corporations.

* * * * *

(c) * * *

(3) * * *

(iii) * * *

(C) [The text of the proposed amendment to §1.367(a)-3(c)(3)(iii)(C) is the same as the text of §1.367(a)-3T(c)(3)(iii)(C) published elsewhere in this issue of the **Federal Register**.]

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(11) * * *

(ii) [The text of the proposed amendment to §1.367(a)-3(c)(11)(ii) is the same as the text of §1.367(a)-3T(c)(11)(ii) published elsewhere in this issue of the **Federal Register**.]

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Par. 4. Section 1.367(b)-4 is amended by revising paragraph (a), paragraph (b) introductory text, and paragraphs (b)(1)(i)(C), (d)(1), (e), (f), (g), and (h) to read as follows:

§1.367(b)-4 Acquisition of foreign corporate stock or assets by a foreign corporation in certain nonrecognition transactions.

(a) [The text of the proposed amendment to §1.367(b)-4(a) is the same as the text of §1.367(b)-4T(a) published elsewhere in this issue of the **Federal Register**.]

(b) [The text of the proposed amendment to the introductory text to §1.367(b)-4(b) is the same as the introductory text of §1.367(b)-4T(b) published elsewhere in this issue of the **Federal Register**.]

(1) * * *

(i) * * *

(C) [The text of the proposed amendment to §1.367(b)-4(b)(1)(i)(C) is the same as the text of §1.367(b)-4T(b)(1)(i)(C) published elsewhere in this issue of the **Federal Register**.]

* * * * *

(d) * * *

(1) [The text of the proposed amendment to §1.367(b)-4(d)(1) is the same as the text of §1.367(b)-4T(d)(1) published elsewhere in this issue of the **Federal Register**.]

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(e) [The text of the proposed amendment to §1.367(b)-4(e) is the same as the text of §1.367(b)-4T(e) published elsewhere in this issue of the **Federal Register**.]

(f) [The text of the proposed amendment to §1.367(b)-4(f) is the same as the text of §1.367(b)-4T(f) published elsewhere in this issue of the **Federal Register**.]

(g) [The text of the proposed amendment to §1.367(b)-4(g) is the same as the text of §1.367(b)-4T(g) published elsewhere in this issue of the **Federal Register**.]

(h) [The text of proposed §1.367(b)-4(h) is the same as the text of §1.367(b)-4T(h) published elsewhere in this issue of the **Federal Register**.]

Par. 5. Section 1.956-2 is amended by revising paragraphs (a)(4), (c)(5), (d)(2), and (i) to read as follows:

§1.956-2 Definition of United States property.

(a) * * *

(4) [The text of the proposed amendment to §1.956-2(a)(4) is the same as the text of §1.956-2T(a)(4) published elsewhere in this issue of the **Federal Register**.]

* * * * *

(c) * * *

(5) [The text of the proposed amendment to §1.956-2(c)(5) is the same as the text of §1.956-2T(c)(5) published elsewhere in this issue of the **Federal Register**.]

(d) * * *

(2) [The text of the proposed amendment to §1.956-2(d)(2) is the same as the text of §1.956-2T(d)(2) published elsewhere in this issue of the **Federal Register**.]

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(i) [The text of the proposed amendment to §1.956-2(i) is the same as the text of §1.956-2T(i) published elsewhere in this issue of the **Federal Register**.]

Par. 6. Section 1.7701(l)-4 is added to read as follows:

§1.7701(l)-4 Rules regarding inversion transactions.

[The text of proposed §1.7701(l)-4 is the same as the text of §1.7701(l)-4T published elsewhere in this issue of the **Federal Register**.]

Par. 7. Section 1.7874-1 is amended by revising paragraphs (c)(2)(iii), (f), and (h)(2) to read as follows.

§1.7874-1 Disregard of affiliate-owned stock.

* * * * *

(c) * * *

(2) * * *

(iii) [The text of the proposed amendment to §1.7874-1(c)(2)(iii) is the same as the text of §1.7874-1T(c)(2)(iii) published elsewhere in this issue of the **Federal Register**.]

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(f) [The text of the proposed amendment to §1.7874-1(f) is the same as the text of §1.7874-1T(f) published elsewhere in this issue of the **Federal Register**.]

* * * * *

(h) * * *

(2) [The text of the proposed amendment to §1.7874-1(h)(2) is the same as the text of §1.7874-1T(h)(2) published elsewhere in this issue of the **Federal Register**.]

Par. 8. Section 1.7874-2 is amended by:

1. Revising paragraphs (a), (b)(7), (b)(8), (b)(9), (b)(10), (b)(11), (b)(12), (b)(13), (c)(2), and (c)(4).
2. Revising paragraph (f)(1) introductory text.
3. Revising paragraph (f)(1)(iv).
4. Revising Example 21 of paragraph (k)(2).
5. Revising paragraph (l)(2).

The revisions read as follows:

§1.7874-2 Surrogate foreign corporation.

(a) [The text of the proposed amendment to §1.7874-2(a) is the same as the text of §1.7874-2T(a) published elsewhere in this issue of the **Federal Register**.]

(b) * * *

(7) [The text of the proposed amendment to §1.7874-2(b)(7) is the same as the text of §1.7874-2T(b)(7) published elsewhere in this issue of the **Federal Register**.]

(8) [The text of the proposed amendment to §1.7874-2(b)(8) is the same as the text of §1.7874-2T(b)(8) published elsewhere in this issue of the **Federal Register**.]

(9) [The text of the proposed amendment to §1.7874-2(b)(9) is the same as the text of §1.7874-2T(b)(9) published elsewhere in this issue of the **Federal Register**.]

(10) [The text of the proposed amendment to §1.7874-2(b)(10) is the same as the text of §1.7874-2T(b)(10) published elsewhere in this issue of the **Federal Register**.]

(11) [The text of the proposed amendment to §1.7874-2(b)(11) is the same as the text of §1.7874-2T(b)(11) published elsewhere in this issue of the **Federal Register**.]

(12) [The text of the proposed amendment to §1.7874-2(b)(12) is the same as the text of §1.7874-2T(b)(12) published elsewhere in this issue of the **Federal Register**.]

(13) [The text of the proposed amendment to §1.7874-2(b)(13) is the same as the text of §1.7874-2T(b)(13) published elsewhere in this issue of the **Federal Register**.]

(c) * * *

(2) [The text of the proposed amendment to §1.7874-2(c)(2) is the same as the text of §1.7874-2T(c)(2) published elsewhere in this issue of the **Federal Register**.]

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(4) [The text of the proposed amendment to §1.7874-2(c)(4) is the same as the text of §1.7874-2T(c)(4) published elsewhere in this issue of the **Federal Register**.]

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(f) * * *

(1) [The proposed amendment to the introductory text of §1.7874-2(f)(1) is the same as the introductory text of §1.7874-2T(f)(1) published elsewhere in this issue of the **Federal Register**.]

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(iv) [The text of the proposed amendment to §1.7874-2(f)(1)(iv) is the same as the text of §1.7874-2T(f)(1)(iv) published elsewhere in this issue of the **Federal Register**.]

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(k) * * *

(2) * * *

Example 21. [The text of the proposed amendment to Example 21 of §1.7874-2(k)(2) is the same as the text of Example 21 of §1.7874-2T(k)(2) published elsewhere in this issue of the **Federal Register**.]

(l) * * *

(2) [The text of the proposed amendment to §1.7874-2(l)(2) is the same as the text of §1.7874-2T(l)(2) published elsewhere in this issue of the **Federal Register**.]

Par. 9. Section 1.7874-3 is amended by revising paragraphs (b)(4), (d)(10), and (f)(2) to read as follows:

§1.7874-3 Substantial business activities.

* * * * *

(b) * * *

(4) [The text of the proposed amendment to §1.7874-3(b)(4) is the same as the text of §1.7874-3T(b)(4) published elsewhere in this issue of the **Federal Register**.]

* * * * *

(d) * * *

(10) [The text of the proposed amendment to §1.7874-3(d)(10) is the same as the text of §1.7874-3T(d)(10) published elsewhere in this issue of the **Federal Register**.]

(f) * * *

(2) [The text of the proposed amendment to §1.7874-3(f)(2) is the same as the text of §1.7874-3T(f)(2) published elsewhere in this issue of the **Federal Register**.]

Par. 10. Section 1.7874-4 is added to read as follows.

§1.7874-4 Disregard of certain stock related to the acquisition.

(a) though (c)(1) introductory text [Reserved].

(i) [The text of proposed §1.7874-4(c)(1)(i) is the same as the text of §1.7874-4T(c)(1)(i) as revised elsewhere in this issue of the Federal Register.]

(ii) [Reserved].

(B) [The text of proposed §1.7874-4(c)(1)(ii)(B) is the same as the text of §1.7874-4T(c)(1)(ii)(B) as revised elsewhere in this issue of the Federal Register.]

(2) [The text of proposed §1.7874-4(c)(2) is the same as the text of §1.7874-4T(c)(2) as revised elsewhere in this issue of the Federal Register.]

(d) introductory text through (d)(1) introductory text [Reserved].

(i) [The text of proposed §1.7874-4(d)(1)(i) is the same as the text of §1.7874-4T(d)(1)(i) published elsewhere in this issue of the Federal Register.]

(ii) [The text of proposed §1.7874-4(d)(1)(ii) is the same as the text of §1.7874-4T(d)(1)(ii) as revised elsewhere in this issue of the Federal Register.]

(d)(2) through (g) [Reserved].

(h) [The text of proposed §1.7874-4(h) is the same as the text of §1.7874-4T(h) as revised elsewhere in this issue of the Federal Register.]

(i) introductory text through (i)(5) [Reserved].

(6) [The text of proposed §1.7874-4(i)(6) is the same as the text of §1.7874-4T(i)(6) published elsewhere in this issue of the Federal Register.]

(i)(7) introductory text through (i)(7)(iii) introductory text [Reserved].

(C) [The text of proposed §1.7874-4(i)(7)(iii)(C) is the same as the text of §1.7874-4T(i)(7)(iii)(C) as revised elsewhere in this issue of the Federal Register.]

(iv) [The text of proposed §1.7874-4(i)(7)(iv) is the same as the text of §1.7874-4T(i)(7)(iv) published elsewhere in this issue of the Federal Register.]

(j) introductory text through (j)(6) [Reserved].

(7) [The text of proposed §1.7874-4(j)(7) is the same as the text of §1.7874-4T(j)(7) as revised elsewhere in this issue of the Federal Register.]

(8) [The text of proposed §1.7874-4(j)(8) is the same as the text of §1.7874-4T(j)(8) as revised elsewhere in this issue of the Federal Register.]

(9) [The text of proposed §1.7874-4(j)(9) is the same as the text of §1.7874-4T(j)(9) published elsewhere in this issue of the Federal Register.]

(10) [The text of proposed §1.7874-4(j)(10) is the same as the text of §1.7874-4T(j)(10) published elsewhere in this issue of the Federal Register.]

(11) [The text of proposed §1.7874-4(j)(11) is the same as the text of §1.7874-4T(j)(11) published elsewhere in this issue of the Federal Register.]

Example 1 introductory text through Example 1 paragraph (i) [Reserved].

(ii) [The text of proposed paragraph (ii) of Example 1 of §1.7874-4(j) is the same as the text of paragraph (ii) of Example 1 of §1.7874-4T(j) as revised elsewhere in this issue of the Federal Register.]

Example 2 introductory text through Example 2 paragraph (i) [Reserved].

(ii) [The text of proposed paragraph (ii) of Example 2 of §1.7874-4(j) is the same as the text of paragraph (ii) of Example 2 of §1.7874-4T(j) as revised elsewhere in this issue of the Federal Register.]

Example 3. [The text of proposed Example 3 of §1.7874-4(j) is the same as the text of Example 3 of §1.7874-4T(j) published elsewhere in this issue of the Federal Register.]

Example 4. [The text of proposed Example 4 of §1.7874-4(j) is the same as the text of Example 4 of §1.7874-4T(j) as redesignated and revised elsewhere in this issue of the Federal Register.]

Example 5. [The text of proposed Example 5 of §1.7874-4(j) is the same as the text of Example 5 of §1.7874-4T(j) as redesignated and revised elsewhere in this issue of the Federal Register.]

Example 6. [The text of proposed Example 6 of §1.7874-4(j) is the same as the text of Example 6 of §1.7874-4T(j) as redesignated and revised elsewhere in this issue of the Federal Register.]

Example 7. [The text of proposed Example 7 of §1.7874-4(j) is the same as the text of Example 7 of §1.7874-4T(j) as redesignated and revised elsewhere in this issue of the Federal Register.]

Example 8. [The text of proposed Example 8 of §1.7874-4(j) is the same as the text of Example 8 of §1.7874-4T(j) as redesignated and revised elsewhere in this issue of the Federal Register.]

Example 9. [The text of proposed Example 9 of §1.7874-4(j) is the same as the text of Example 9 of §1.7874-4T(j) as redesignated and revised elsewhere in this issue of the Federal Register.]

(k) introductory text [Reserved].

(1) [The text of proposed §1.7874-4(k)(1) is the same as the text of §1.7874-4T(k)(1) published elsewhere in this issue of the Federal Register.]

(k)(2) through (k)(3) [Reserved].

Par. 11. Section 1.7874-6 is added to read as follows:

§1.7874-6 Stock transferred by members of the EAG.

[The text of proposed §1.7874-6 is the same as the text of §1.7874-6T published elsewhere in this issue of the **Federal Register**.]

Par. 12. Section 1.7874-7 is added to read as follows:

§1.7874-7 Disregard of certain stock attributable to passive assets.

[The text of proposed §1.7874-7 is the same as the text of §1.7874-7T published elsewhere in this issue of the **Federal Register**.]

Par. 13. Section 1.7874-8 is added to read as follows:

§1.7874-8 Disregard of certain stock attributable to multiple domestic entity acquisitions.

[The text of proposed §1.7874-8 is the same as the text of §1.7874-8T published elsewhere in this issue of the **Federal Register**.]

Par. 14. Section 1.7874-9 is added to read as follows:

§1.7874-9 Disregard of certain stock in third-country transactions.

[The text of proposed §1.7874-9 is the same as the text of §1.7874-9T published elsewhere in this issue of the **Federal Register**.]

Par. 15. Section 1.7874-10 is added to read as follows:

§1.7874-10 Disregard of certain distributions.

[The text of proposed §1.7874-10 is the same as the text of §1.7874-10T published elsewhere in this issue of the **Federal Register**.]

Par. 16. Section 1.7874-11 is added to read as follows:

§1.7874-11 Rules regarding inversion gain.

[The text of proposed §1.7874-11 is the same as the text of §1.7874-11T published elsewhere in this issue of the **Federal Register**.]

Par. 17. Section 1.7874-12 is added to read as follows:

§1.7874-12 Definitions.

[The text of proposed §1.7874-12 is the same as the text of §1.7874-12T published elsewhere in this issue of the **Federal Register**.]

John Dalrymple,

Deputy Commissioner for Services and Enforcement.
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